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FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Dierk Wieckhusen et al.	:	
Application No. 10/521,064	:	ON PETITION
Filed: January 12, 2005	:	
Attorney Docket No. VAND-0022-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is July 29, 2008. A Notice of Abandonment was mailed on January 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

A terminal disclaimer is not necessary. The fee will be refunded to petitioner's credit card.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110 extension of time fee submitted with the petition on January 13, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long horizontal flourish extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
VAND-0022-US

First named inventor: Wieckehusen, Dierk

Application No.: 10/521,064

Art Unit: 1616

Filed: 1/12/2005

Examiner: Karpinski, Luke E.

Title: INJECTABLE DEPOT FORMULATION COMPRISING CRYSTALS OF ILOPERIDONE

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

Refund Ref: 0030066679
02/13/2009

Credit Card Refund Total: \$1250.00

Am Exp.: XXXXXXXXXXXX1043

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1620 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of continuation application (identify type of reply):

- ☒ has been filed previously on 10/21/2008
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
☐ is enclosed herewith.

Adjustment date: 02/13/2009 CKHLOK
01/14/2009 INTEFSW 00001873 10521064
02 FC:1253 -1110.00 00
03 FC:1814 -140.00 00

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ 140 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Stephen F. Swinton, Jr./
Signature

13 January 2009
Date

Stephen F. Swinton, Jr.
Typed or printed name

53661
Registration Number, if applicable

75 State Street, 14th Floor
Address

518.449.0044
Telephone Number

Albany, New York 12207
Address

Enclosures: ☒ Fee Payment

☐ Reply

☒ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: <u>2/6/09</u>		2 Serial/Patent # <u>10/521,064</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
<input type="checkbox"/>	Filing			\$
<input type="checkbox"/>	Amendment			\$
<input checked="" type="checkbox"/>	Extension of Time		<u>1/13/09</u>	\$ <u>1,110</u>
<input type="checkbox"/>	Notice of Appeal/Appeal			\$
<input type="checkbox"/>	Petition			\$
<input type="checkbox"/>	Issue			\$
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$
<input type="checkbox"/>	Maintenance			\$
<input type="checkbox"/>	Assignment			\$
<input checked="" type="checkbox"/>	Other (Terminal Disclaimer)		<u>1/13/09</u>	\$ <u>140</u>
		7 TOTAL AMOUNT OF REFUND		\$ <u>1,250</u>
		8 TO BE REFUNDED BY:		
10 REASON:		<input type="checkbox"/> Treasury Check		
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<input type="checkbox"/>	Duplicate Payment	9 <input type="text"/> <input type="text"/> -- <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
<input checked="" type="checkbox"/>	No Fee Due (Explanation):			
<u>No Terminal disclaimer was needed. The extension of time was paid after maximum extendable time period. Refund to Credit Card.</u>				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Kimberly Inabinet</u>		TITLE: <u>Petitions Examiner</u>		
SIGNATURE: <u>Kimberly Inabinet</u>		PHONE: <u>x24618</u>		
OFFICE: <u>Office of Petitions</u>				
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APPROVED: <u>CKHOK</u>		DATE: <u>2/13/09</u>		

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